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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,823	11/05/2003	Richard T. Evans	L0562.70045US01	7040
7590	08/13/2004		EXAMINER	
Robert M. Abrahamsen Wolf, Greenfield & Sacks, P.C. 600 Atlantic Avenue Boston, MA 02210			RIDLEY, RICHARD	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/701,823	EVANS ET AL.
Examiner	Art Unit	
Richard Ridley	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 November 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5,8-18,21-30,33-57,60-69 and 72-82 is/are rejected.
- 7) Claim(s) 6,7,19,20,31,32,58,59,70 and 71 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11-5-03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 3, 4, 5, 8, 9, 10, 15, 16, 17, 18, 21, 22, 23, 28, 29, 30, 33, 34, 35, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 54, 55, 56, 57, 60, 61, 62, 67, 68, 69, 72, 73, 74, 75, 79, 80, 81, 82 are rejected under 35 U.S.C. 102(b) as being anticipated by Goldinger USP 3,921,789. Goldinger disclose a similar device comprising a(n):

- At least one conveyor belt (33)
- First conveying system (25)

3. Claims 1, 2, 3, 4, 5, 8, 9, 10, 15, 16, 17, 18, 21, 22, 23, 28, 29, 30, 33, 34, 35, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 54, 55, 56, 57, 60, 61, 62, 67, 68, 69, 72, 73, 74, 75, 79, 80, 81, 82 are rejected under 35 U.S.C. 102(b) as being anticipated by Branch et al. USP 3,680,677. Branch disclose a similar method comprising a(n):

- Moving a first article along a second path (articles move from rollers 11 to rollers 13; fig. 2) that extends in a second direction, which is transverse to the first direction (belts 16 move articles in a first direction), to a first position above but not in contact with the least one conveyor belt (articles delivered to rollers 13 are not in contact with belt 16)

- Moving the first article onto the at least one conveyor belt (16)

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 11, 24, 36, 50, 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Branch in view of Titmas USP 3,456,773.

Branch discloses all of the claim limitations, as above, but does not disclose diverting at least one article from the at least one conveyor belt at a second position upstream of the first position.

Titmas teaches the step of diverting at least one article (C) from the at least one conveyor belt (32) at a second position upstream of a first position (all positions upstream of position 34C) for the purpose of diverting articles to a predetermined branch line in a conveying system as may be required as per sorting needs.

It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided for the diverting of at least one article from the at least one conveyor belt at a second position upstream of the first position, as taught by Titmas, in the method of Branch for the purpose of diverting articles to a predetermined branch line in a conveying system as may be required as per sorting needs.

6. Claims 12, 13, 14, 25, 26, 27, 37, 38, 39, 51, 52, 53, 64, 65, 66, 76, 77, 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Branch in view of Miyazaki USP 6,370,447.

Branch discloses all of the claim limitations, as above, but does not disclose using a controller to monitor an output of at least one sensor to determine whether sufficient room exists between successive articles on the at least one conveyor belt to induct the first article there between.

Miyazaki teaches using a controller (fig. 7) to monitor an output of at least one sensor (A1s-A9s) to determine whether sufficient room exists between successive articles on the at least one conveyor belt to induct the first article there between for the purpose of facilitating the introduction of articles onto a main line conveyor (abstract).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have used a controller to monitor an output of at least one sensor to determine whether sufficient room exists between successive articles on the at least one conveyor belt to induct the first article there between, as taught by Miyazaki, in the device of Branch for the purpose of facilitating the introduction of articles onto a main line conveyor.

Regarding claims 14, 27, 39, 53, 66, 78, Miyazaki teaches inducting at least one article onto the at least one conveyor at a location upstream of a first position for the purpose of providing for a means to load articles onto a main line conveyor at multiple points.

It would have been obvious to one having ordinary skill in the art at the time of the invention to have inducted at least one article onto the at least one conveyor at a location upstream of a first position, as taught by Miyazaki, in the device of Branch for the purpose of providing for a means to load articles onto a main line conveyor at multiple points

***Allowable Subject Matter***

7. Claims 6, 7, 19, 20, 31, 32, 58, 59, 70, 71 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Ridley whose telephone number is (703) 306-5910. The examiner can normally be reached on Mon-Thur 7:00 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard Ridley  
10 Aug 2004

Richard Ridley  
Primary Examiner  
Art Unit 3651